

#### REMARKS

The claims have been amended to more clearly define the invention as disclosed in the written description. In particular, claim 12 has been cancelled. In addition, the claims have been amended for clarity.

The Examiner has rejected claims 1, 3-5, 6, 8, 10, 12 and 13 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Application Publication No. 2002/0062290 to Ricci. The Examiner has further rejected claims 2, 7, 9 and 11 under 35 U.S.C. 103(a) as being unpatentable over Ricci in view of U.S. Patent Application Publication No. 2003/0002521 to Traversat et al.

The Ricci publication discloses a method for distributing and licensing digital media.

As noted in MPEP §2131, it is well-founded that "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Further, "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Ricci, at paragraphs [0048] - [0068], discloses that server has several databases: One of them is the digital media database which is an index to the digital media stored on the server and the peers of the network [0050]. This database includes

the identity of the peer storing the data [0050]. Another database is the recipient database [0052]. If a user enters a name and password on a client, the server confirms these using this database [0057]. The server also includes a royalty database [0053]. The digital media database in the server is used for searching. The client selects which piece of media on a particular peer it wants [0058]. Together with information identifying the recipient, the client forms a request for the media piece and sends this to the server [0060]. The server verifies that the recipient is registered and licensed [0061] and [0062]. The server forwards the request to the peer [0065]. The peer sends the media information to the recipient [0066].

Applicants submit that Ricci does not disclose (underlined parts):

- transmitting from a first device, a first request with a first selection criterion for a first content to a second device (It should be noted that paragraphs [0021] and [0058] do not disclose sending the request to another device other than the server);
- in said server, checking if the first content satisfying said first selection criterion is available in said peer to peer network only on said server (It should be noted that paragraphs [0021], [0058] do appear not to disclose checking if the content is only available on the server);
- in said second device, in response to receiving said first request, checking if the first content satisfying said first

selection criterion is available on said second device and has been supplied by said server to said second device or has been approved by server for subsequent transfer by said second device; if so, transferring the first content satisfying said first selection criterion to said first device, and informing the server that said first content has been transferred to said first device from said second device (It should be noted that Ricci does not have an equivalent of the second device; Ricci only has an equivalent of the third device);

- rewarding the one of said second or third device from which said first content was transferred to said first device, when content was transferred from one of these (It should be noted that Ricci discloses only that the owner of the media is rewarded; Ricci does not disclose that a peer device is rewarded for acting as a 'server' in the peer to peer network.

The Traversat et al. publication discloses bootstrapping for joining the peer-to-peer environment.

Applicants submit that a person might want to read Traversat et al., since Traversat et al. also lies in the field of peer-to-peer networks. Traversat et al. does disclose two ways of searching through the network (centralized index in [0020] or crawling [0021]). However, Applicants submit that Traversat et al. does not disclose how a peer can ensure that the content is legal. As such Traversat et al. does not disclose nor suggest the claimed method where content initially must have entered the network via the server (and the server remembering which peers now also store a

copy) or the peer must have validated its content via the server. According to the invention, irrespective of to which station the request for a media item is targeted, the server has been involved in validating the content and takes care of royalty payment. The server need not be involved in the actual request and the actual supply, reducing the load on the server significantly. Peers are rewarded for supplying content. All these issues are not disclosed in Traversat et al.. Consequently, Traversat et al. does not disclose the claimed solution.

In view of above, Applicants believe that the subject invention, as claimed, is neither anticipated nor rendered obvious by the prior art, either individually or collectively, and as such, is patentable thereover.

Applicants believe that this application, containing claims 1-11 and 13, is now in condition for allowance and such action is respectfully requested.

Respectfully submitted,

by           /Edward W. Goodman/            
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